



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,952	02/06/2004	Katja Peter	LWEP:122US	7353
24041	7590	08/26/2005	EXAMINER	
SIMPSON & SIMPSON, PLLC 5555 MAIN STREET WILLIAMSVILLE, NY 14221-5406			ROBINSON, MARK A	
		ART UNIT	PAPER NUMBER	
		2872		

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/773,952	PETER ET AL.	
	Examiner	Art Unit	
	Mark A. Robinson	2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 August 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
 4a) Of the above claim(s) 4-13 is/are withdrawn from consideration.
 5) Claim(s) 14-22 and 30 is/are allowed.
 6) Claim(s) 1 is/are rejected.
 7) Claim(s) 2,3 and 23-29 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 06 February 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group I in the reply filed on 8/8/05 is acknowledged. Claims 1-3,14 and 15 read on the elected invention and will be examined as follows. Claim 14 is a linking claim and is allowable as will be set forth below. Accordingly, the restriction requirement as to the encompassed inventions is hereby withdrawn and claims 16-30 are no longer withdrawn from consideration since these claims depend from or otherwise include each of the limitations of an allowed linking claim. However, claims 4-13 remain withdrawn from consideration since they do not depend upon or otherwise include all the limitations of an allowed linking claim as required by 37 CFR 1.141.

In view of the above noted withdrawal of the restriction requirement as to the linked inventions, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is

Art Unit: 2872

withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Claim Objections

2. Claims 3 and 23-29 are objected to because of the following informalities: "the main menu" in claim 3 lacks antecedent basis. It appears that this claim should depend from claim 2 where it finds antecedent support for its terms. Appropriate correction is required. For examination purposes, claim 3 will be interpreted as depending from claim 2.

In claims 23-29, the following terms lack antecedent basis:

Claim 23: "the X/Y stage", "the X/Y plane"

Claim 24: "the firmware version", "the initial setup"

Claim 25: "the overall operating state"

Claim 26: "the available contrasting techniques", "the various indications", "the previous settings"

Claim 27: "the magnification changer"

Claim 28: "the currently set viewing output", "the available output"

Claim 29: "the current stage position"

Art Unit: 2872

Further, in claim 27 "(e.g. contrasting techniques)" should be either deleted or the parenthesis removed to avoid confusion.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Abe (US 6235014).

Abe discloses a device for controlling microscope functions including a display(3) integrated into a stand base portion of the microscope which performs settings, calls saved settings, and displays warnings or notifications from the system (see also figs. 1-3).

Allowable Subject Matter

5. Claims 14-30 are allowed, pending correction of any pertinent objections set forth above.

6. Claims 2 and 3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in

Art Unit: 2872

independent form including all of the limitations of the base claim and any intervening claims. Note that claim 3 is allowable if dependent upon claim 2 as noted above.

7. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not teach or suggest the specific arrangement and layout for the display wherein the entire display is used for presentation in the information mode as set forth in the combination of claim 2 or claim 14.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The documents to Sklar, Rudolph, Lifshitz, Berstein, Chih and Sakano all disclose various arrangements for display devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Robinson whose telephone number is (571) 272-2319.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn, can be reached at (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 2872

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MR

8/25/05


MARK A. ROBINSON
PRIMARY EXAMINER